
SUBSTITUTE SENATE BILL 6745

State of Washington 60th Legislature 2008 Regular Session

By Senate Consumer Protection & Housing (originally sponsored by Senator Fraser)

READ FIRST TIME 02/06/08.

1 AN ACT Relating to homeowners' associations; amending RCW
2 64.38.005, 64.38.010, 64.38.015, 64.38.020, 64.38.025, 64.38.030,
3 64.38.035, and 64.38.040; adding new sections to chapter 64.38 RCW; and
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 64.38.005 and 1995 c 283 s 1 are each amended to read
7 as follows:

8 The intent of this chapter is to provide consistent laws regarding
9 the formation and legal administration of homeowners' associations.
10 Unless otherwise provided in this chapter, this chapter applies to all
11 homeowners' associations in the state, regardless of when the
12 declaration was recorded or the association was established.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.38 RCW
14 to read as follows:

15 An obligation of good faith is imposed in the performance and
16 enforcement of all contracts and duties governed by this chapter and in
17 all other transactions involving declarants, associations, and their
18 members.

1 For purposes of this section, "good faith" means honesty in fact
2 and the observance of reasonable standards of fair dealing.

3 **Sec. 3.** RCW 64.38.010 and 1995 c 283 s 2 are each amended to read
4 as follows:

5 For purposes of this chapter:

6 (1) "Homeowners' association" or "association" means a corporation,
7 unincorporated association, or other legal entity, each member of which
8 is an owner of residential real property located within the
9 association's jurisdiction, as described in the governing documents,
10 and by virtue of membership (~~(or ownership of property)~~), the owner is
11 obligated to pay (~~(real property taxes, insurance premiums, maintenance~~
12 ~~costs, or for improvement of real property other than that which is~~
13 ~~owned by the member)~~) assessments pursuant to the governing documents.
14 "Homeowners' association" does not mean an association created under
15 chapter 64.32 or 64.34 RCW.

16 (2) "Governing documents" means the declaration, articles of
17 incorporation, bylaws, (~~(plat, declaration of covenants, conditions,~~
18 ~~and restrictions,~~) rules and regulations of the association, or other
19 written instrument by which the association has the authority to
20 exercise any of the powers provided for in this chapter or to manage,
21 maintain, or otherwise affect the property under its jurisdiction.

22 (3) "Board of directors" or "board" means the body, regardless of
23 name, with primary authority to manage the affairs of the association.

24 (4) "Common areas" means property owned, or otherwise maintained,
25 repaired or administered by the association.

26 (5) "Common expense" means the costs incurred by the association to
27 exercise any of the powers provided for in this chapter.

28 (6) "Residential real property" means any real property, the use of
29 which is limited by law, covenant or otherwise to primarily residential
30 or recreational purposes.

31 (7) "Assessment" means all sums chargeable by the association
32 against a lot including, without limitation:

33 (a) Regular and special assessments for common expenses, charges,
34 and fines imposed by the association;

35 (b) Interest and late charges on any delinquent account; and

36 (c) Costs of collection, including reasonable attorneys' fees,

1 incurred by the association in connection with the collection of an
2 owner's delinquent account.

3 This subsection (7) supersedes any inconsistent provision in the
4 governing documents.

5 (8) "Bylaws" means the code adopted for the regulation or
6 management of the internal affairs of the association, irrespective of
7 the designated name of that code. If an association is incorporated
8 under Title 23 or 24 RCW, "bylaws" means the definition assigned to
9 "bylaws" in the act pursuant to which the association is incorporated.

10 (9) "Community" means residential real property that is subject to
11 a declaration under which an association is established for governance
12 of the community.

13 (10) "Cooperative" means a community in which the residential real
14 property is owned by an association where each of those members is
15 entitled, by virtue of his or her ownership interest in the
16 association, to exclusive possession of a portion of the property.

17 (11) "Declarant" means any person who executes as a declarant a
18 declaration or succeeds to the rights of a declarant pursuant to an
19 instrument recorded in the real property records of every county in
20 which any portion of the community is located.

21 (12) "Declaration" means the declaration of covenants, conditions,
22 and restrictions or any other document, however denominated, that is
23 recorded in every county in which any portion of the community is
24 located and that provides for the establishment of an association to
25 govern the community. In the case of a cooperative, "declaration"
26 means the document or documents, however denominated, that create the
27 cooperative housing association that owns the residential real property
28 comprising the cooperative, whether or not the document or documents
29 are recorded.

30 (13) "Lot" means a physical portion of a community designated for
31 separate ownership or occupancy and designated for residential use, the
32 boundaries of which are described in the real property records of every
33 county in which any portion of the community is located. Within a
34 cooperative, "lot" means that portion of the community designated for
35 exclusive possession by a member of the cooperative's association.
36 "Lot" does not mean an apartment created under chapter 64.32 RCW or a
37 unit created under chapter 64.34 RCW.

1 (14) "Owner" means a declarant or other person who owns a lot, but
2 does not include a person who has an interest in a lot solely as
3 security for an obligation. Under a real estate contract, "owner"
4 means the vendee, not the vendor.

5 (15) "Person" means a natural person, corporation, partnership,
6 limited partnership, trust, government subdivision or agency, or other
7 legal entity.

8 (16) "Rules" means the rules, regulations, and policies,
9 irrespective of their designated name, that are adopted by the members
10 of the board of an association in accordance with the governing
11 documents and that supplement, but do not contradict or contravene, the
12 governing documents.

13 **Sec. 4.** RCW 64.38.015 and 1995 c 283 s 3 are each amended to read
14 as follows:

15 The membership of an association at all times shall consist
16 exclusively of the owners of all real property over which the
17 association has jurisdiction, both developed and undeveloped or, in the
18 case of a cooperative, the members of the association who by virtue of
19 their ownership interest in the association have exclusive possession
20 of a lot.

21 **Sec. 5.** RCW 64.38.020 and 1995 c 283 s 4 are each amended to read
22 as follows:

23 Unless otherwise provided in the ~~((governing—documents))~~
24 declaration, an association may:

25 (1) Adopt and amend bylaws, resolutions, policies, rules, and
26 regulations that are not inconsistent with the declaration or with this
27 chapter;

28 (2) Adopt and amend budgets for revenues, expenditures, and
29 reserves, and impose and collect assessments for common expenses from
30 owners;

31 (3) Hire and discharge or contract with managing agents and other
32 employees, agents, and independent contractors;

33 (4) Institute, defend, or intervene in litigation or administrative
34 proceedings in its own name on behalf of itself or two or more owners
35 on matters affecting the homeowners' association, but not on behalf of

- 1 owners involved in disputes that are not the responsibility of the
2 association;
- 3 (5) Make contracts and incur liabilities;
- 4 (6) Regulate the use, maintenance, repair, replacement, and
5 modification of common areas;
- 6 (7) Cause additional improvements to be made as a part of the
7 common areas;
- 8 (8) Acquire, hold, encumber, and convey in its own name any right,
9 title, or interest to real or personal property;
- 10 (9) Grant easements, leases, licenses, and concessions through or
11 over the common areas and petition for or consent to the vacation of
12 streets and alleys;
- 13 (10) Impose and collect any payments, fees, or charges for the use,
14 rental, or operation of the common areas;
- 15 (11) Impose and collect charges for late payments of assessments
16 (~~and, after notice and an opportunity to be heard by the board of~~
17 ~~directors or by the representative designated by the board of directors~~
18 ~~and in accordance with the procedures as provided in the bylaws or~~
19 ~~rules and regulations adopted by the board of directors, levy~~
20 ~~reasonable fines in accordance with a previously established schedule~~
21 ~~adopted by the board of directors and furnished to the owners for~~
22 ~~violation of the bylaws, rules, and regulations of the association));~~
- 23 (12) Take enforcement action with respect to any violation of the
24 governing documents;
- 25 (13) After notice and an opportunity to be heard by the board of
26 directors or by the representative designated by the board of
27 directors, and in accordance with the procedures provided in the
28 governing documents, levy reasonable fines in accordance with a
29 previously established schedule adopted by the board of directors and
30 furnished to the owners for violations of the governing documents;
- 31 (14) Exercise any other powers conferred by the declaration,
32 articles, or bylaws;
- 33 ((+13)) (15) Exercise all other powers that may be exercised in
34 this state by the same type of ((~~corporation~~)) legal entity as the
35 association, provided those powers do not conflict with any duties
36 imposed on an association in this chapter; and
- 37 ((+14)) (16) Exercise any other powers necessary and proper for
38 the governance and operation of the association.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 64.38 RCW
2 to read as follows:

3 (1) This section establishes voluntary procedures for the
4 enforcement of governing documents.

5 (2) A homeowners' association is deemed to have provided notice and
6 an opportunity to be heard as required under RCW 64.38.020(13) if the
7 association fulfills the following requirements:

8 (a) The association must provide the owner with a notice of the
9 violation that contains:

10 (i) A reference to the rule or rules that the owner allegedly
11 violated;

12 (ii) A short statement of the evidence of the rule violation;

13 (iii) The name of a person with firsthand knowledge of the facts
14 that support the determination that the violation occurred;

15 (iv) A short statement of the action that the association intends
16 to take, including the amount of any fine, subject to the owner's right
17 to request a hearing;

18 (v) A statement that if the owner wishes to contest or explain the
19 violation, he or she must submit a written request for a hearing to the
20 association within fifteen days of delivery of the notice of violation;

21 (vi) A statement of the owner's rights to a hearing, to attend the
22 hearing, to be represented by counsel, and to review the evidence
23 supporting the alleged violation;

24 (b) Upon the timely request for a hearing from an owner, the
25 association must set a hearing date no less than thirty and no more
26 than sixty days from the association's receipt of the request. The
27 association must notify the owner of the hearing at least twenty days
28 before the hearing and must include with the notification a copy of the
29 association's rules of procedure for conducting a hearing;

30 (c) Upon a timely request by the owner who requested a hearing, the
31 association must, at least ten days before the date of the hearing,
32 either provide the owner with a copy of all its evidence concerning the
33 alleged violation, including copies of the complaint signed by a
34 witness with firsthand knowledge of the facts that support the
35 determination that the violation occurred, or identify a reasonable
36 time and place at which the owner may inspect such evidence;

37 (d) The association must permit the owner to be represented by
38 counsel at the hearing; and

1 (e) The association must provide the owner with a written decision,
2 including a statement of the reasons for the decision, within thirty
3 days after the hearing.

4 (3) The chair of the hearing may adjourn or continue the hearing,
5 if necessary, to gather additional information that the association
6 needs in order to make a decision.

7 (4) If an owner does not request a hearing within fifteen days of
8 the association's delivery of the notice of violation, the association
9 may take the remedial action stated in the notice, including the
10 imposition of any fine listed in the notice.

11 **Sec. 7.** RCW 64.38.025 and 1995 c 283 s 5 are each amended to read
12 as follows:

13 (1) Except as provided in the association's governing documents or
14 this chapter, the board of directors shall act in all instances on
15 behalf of the association. In the performance of their duties, the
16 officers of the association and members of the board of directors shall
17 exercise the degree of care and loyalty required of an officer or
18 director of a corporation organized under chapter 24.03 RCW.

19 (2) The board of directors shall not act on behalf of the
20 association to amend the articles of incorporation, to take any action
21 that requires the vote or approval of the owners, to terminate the
22 association, to elect members of the board of directors, or to
23 determine the qualifications, powers, and duties, or terms of office of
24 members of the board of directors; but the board of directors may fill
25 vacancies in its membership of the unexpired portion of any term.

26 ~~((3) Within thirty days after adoption by the board of directors~~
27 ~~of any proposed regular or special budget of the association, the board~~
28 ~~shall set a date for a meeting of the owners to consider ratification~~
29 ~~of the budget not less than fourteen nor more than sixty days after~~
30 ~~mailing of the summary. Unless at that meeting the owners of a~~
31 ~~majority of the votes in the association are allocated or any larger~~
32 ~~percentage specified in the governing documents reject the budget, in~~
33 ~~person or by proxy, the budget is ratified, whether or not a quorum is~~
34 ~~present. In the event the proposed budget is rejected or the required~~
35 ~~notice is not given, the periodic budget last ratified by the owners~~
36 ~~shall be continued until such time as the owners ratify a subsequent~~
37 ~~budget proposed by the board of directors.~~

1 ~~(4) The owners by a majority vote of the voting power in the~~
2 ~~association present, in person or by proxy, and entitled to vote at any~~
3 ~~meeting of the owners at which a quorum is present, may remove any~~
4 ~~member of the board of directors with or without cause.))~~

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 64.38 RCW
6 to read as follows:

7 A board of directors may by majority vote incorporate an
8 unincorporated homeowners' association as a nonprofit corporation.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 64.38 RCW
10 to read as follows:

11 Notwithstanding any inconsistent provision in the governing
12 documents or other applicable statutes, any member of the board of
13 directors may be removed with or without cause by a majority vote of
14 the owners (1) entitled to elect the board member and present, in
15 person or by proxy, and (2) entitled to vote at any regular or special
16 meeting of the owners at which a quorum is present.

17 **Sec. 10.** RCW 64.38.030 and 1995 c 283 s 6 are each amended to read
18 as follows:

19 Unless provided for in the (~~governing documents~~) declaration, the
20 bylaws of the association (~~shall~~) must contain provisions that are
21 consistent with this chapter and provide for:

22 (1) The number, qualifications, powers and duties, terms of office,
23 and manner of electing and removing the board of directors and officers
24 of the association and filling vacancies;

25 (2) Election by the board of directors of the officers of the
26 association as the bylaws specify;

27 (3) Which, if any, of its powers the board of directors or officers
28 of the association may delegate to other persons or to a managing
29 agent;

30 (4) Which of its officers may prepare, execute, certify, and record
31 amendments to the governing documents on behalf of the association;

32 (5) The method of amending the bylaws; and

33 (6) (~~Subject to the provisions of the governing documents,~~) Any
34 other matters the association deems necessary and appropriate.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 64.38 RCW
2 to read as follows:

3 (1) The association must provide the homeowner with the documents
4 and records reasonably requested by the homeowner to furnish a buyer
5 with the resale certificate required in this section.

6 (2) Unless waived in writing by the buyer and except as provided
7 under subsection (5) of this section, in a transaction for the sale of
8 a lot that is subject to this chapter, the seller shall furnish to the
9 buyer a resale certificate signed by an officer or authorized agent of
10 the association and based on the books and records of the association
11 and the actual knowledge of the person signing the certificate
12 containing:

13 (a) A statement setting forth the amount of the annual assessment
14 due from the seller, any unpaid assessment currently due and payable
15 from the seller, and a statement of any special assessments that have
16 been levied against the lot and have not been paid even though they are
17 not yet due;

18 (b) A statement, which must be current to within forty-five days,
19 of whether the sum of assessments that are delinquent under the
20 association's reasonable delinquency policy exceeds ten percent of the
21 association's budgeted annual expenditures and, if so, the total number
22 of lots that are delinquent under the delinquency policy;

23 (c) A statement, which must be current to within forty-five days,
24 of whether any obligation or liability of the association in excess of
25 the lesser of ten thousand dollars or five percent of the association's
26 budgeted annual expenditures that is sixty days or more past due and,
27 if so, the circumstances that account for this delinquency;

28 (d) A statement of any anticipated repair or replacement costs
29 approved by the board of directors that exceed five percent of the
30 association's current budgeted annual expenditures;

31 (e) A statement of the amount of any reserves for repair or
32 replacement and of any portions of those reserves currently designated
33 by the association for any specified projects;

34 (f) The annual financial statement of the association, including
35 the audit report if it has been prepared, for the year immediately
36 preceding the current year;

37 (g) A balance sheet and a revenue and expense statement of the
38 association, which must be current to within one hundred twenty days;

- 1 (h) The current ratified budget of the association;
- 2 (i) A statement of any unsatisfied judgments against the
3 association and the status of any pending suits or legal proceedings in
4 which the association is a plaintiff or defendant;
- 5 (j) A statement describing any insurance coverage maintained by the
6 association;
- 7 (k) A statement as to whether there are any alterations or
8 improvements to the seller's lot that the association has determined
9 violate any provision of the governing documents;
- 10 (l) A statement of whether the association is under declarant
11 control;
- 12 (m) A statement as to whether there are any known and currently
13 existing violations of applicable health or building codes with respect
14 to the lot or improvements located on the lot, or any portions of the
15 common areas or improvements of the common areas; and
- 16 (n) A copy of the governing documents that include the following,
17 if applicable:
- 18 (i) The plat maps and declaration;
- 19 (ii) The articles of incorporation;
- 20 (iii) Bylaws, rules, regulations, and policies, if any, including
21 architectural and construction standards and guidelines;
- 22 (iv) The association's current fine schedule;
- 23 (v) A copy of the minutes of the most recent meeting of the members
24 of the association, minutes of the previous six meetings of the board
25 of directors, except that minutes of a board meeting that occurred more
26 than three years before the date of the resale certificate required
27 under this section does not need to be provided; and
- 28 (vi) Any other information reasonably requested by the seller on
29 behalf of the mortgagees of prospective buyers.

30 The association may charge a fee for photocopying costs not to
31 exceed fifteen cents per page for providing any of the documents
32 required to be disclosed in this subsection. The duty to provide
33 copies of documents that are recorded in the recording office of the
34 county in which the lot is located is satisfied if the association
35 identifies in the resale certificate a link to a web site in which
36 copies of the recorded documents can be obtained. The duty to provide
37 copies of documents that are publicly available on the association's
38 web site is satisfied if the association identifies in the resale

1 certificate a link to its web site. The duty to provide copies of the
2 documents required to be disclosed in this subsection is satisfied if
3 the association provides the documents via compact disc or other
4 electronic storage device or via electronic transmission to an email
5 address that the seller who requests the issuance of a resale
6 certificate shall provide to the association.

7 (3)(a) The association, within ten days after a request by a
8 seller, and subject to the seller's payment of a reasonable fee not to
9 exceed one hundred fifty dollars, shall furnish to the seller a resale
10 certificate signed by an officer or authorized agent of the association
11 and containing the information necessary to enable the seller to comply
12 with this section.

13 (b) The association may charge a seller a nominal fee for updating
14 a resale certificate within six months of the seller's request.

15 (4) The seller shall sign the resale certificate, but the seller is
16 not liable to the buyer for any erroneous information provided by the
17 association and included in the resale certificate unless, and to the
18 extent, the seller had actual knowledge of the erroneous information.

19 (5) The resale certificate is not required in real property
20 transfers that occur between commercial buyers and sellers or those
21 transfers listed in RCW 64.06.010.

22 (6) The resale certificate must be attached to the seller
23 disclosure statement required under RCW 64.06.020 unless the buyer has
24 waived the right to receive a seller disclosure statement as provided
25 under chapter 64.06 RCW.

26 (7) The timing of delivery of the seller's disclosures to the buyer
27 under this section is governed by RCW 64.06.030. A buyer may rescind
28 an agreement for the purchase and sale of a lot in accordance with RCW
29 64.06.030, and the buyer has the rights and remedies provided in RCW
30 64.06.070.

31 (8) The fee set forth in subsection (3)(a) of this section may be
32 adjusted for inflation based on the consumer price index applicable to
33 the geographic area in which the lot is located.

34 (9) An association may require the seller to obtain a signed
35 acknowledgement from the buyer affirming that any disclosed information
36 will not be disclosed to third parties unless such disclosure is
37 related to the decision to purchase the lot.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 64.38 RCW
2 to read as follows:

3 (1) Except as provided under subsection (2) of this section, a
4 seller must furnish to a purchaser before the execution of any contract
5 for sale of residential real property in which the lot is subject to
6 this chapter the following notice:

7 "BY PURCHASING THE RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF THIS
8 AGREEMENT, YOU WILL BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT
9 GOVERNS THE COMMUNITY IN WHICH THE PROPERTY IS LOCATED. THE
10 ASSOCIATION MAY MAINTAIN AND REPAIR COMMON AREAS, RESTRICT THE USE OF
11 YOUR PROPERTY, COLLECT DUES, AND APPROVE OR DISAPPROVE BUILDING PLANS.
12 UNLESS YOU WAIVE YOUR RIGHT IN WRITING, YOU ARE ENTITLED TO RECEIVE
13 FROM THE SELLER AS PART OF THE DISCLOSURE STATEMENT REQUIRED UNDER
14 CHAPTER 64.06 RCW A CERTIFICATE SIGNED BY AN OFFICER OR AUTHORIZED
15 AGENT OF THE HOMEOWNERS' ASSOCIATION DISCLOSING CERTAIN FINANCIAL AND
16 OTHER INFORMATION ABOUT THE ASSOCIATION."

17 (2) The notice is not required in real property transfers that
18 occur between commercial buyers and sellers or those transfers listed
19 in RCW 64.06.010.

20 NEW SECTION. **Sec. 13.** A new section is added to chapter 64.38 RCW
21 to read as follows:

22 (1) Within thirty days after adoption by the board of directors of
23 any proposed regular or special budget of the association, the board
24 shall set a date for a meeting of the owners to consider adoption of
25 the budget no less than ten and no more than sixty days after the
26 mailing of the summary of the proposed regular or special budget. A
27 proposed budget is adopted if approved by a majority vote of members,
28 in person or by proxy, present at the meeting, or by a larger
29 percentage if specified in the governing documents, if there is a
30 quorum present at the meeting. If the proposed budget is not adopted
31 or the required notice is not provided, the periodic budget last
32 adopted by the owners shall be continued until the owners adopt a
33 subsequent budget proposed by the board of directors.

34 (2) To the extent authorized in the declaration, an association's
35 lien rights may include liens to secure payment of fines validly
36 imposed.

1 (3) A lien for unpaid assessments and the personal liability for
2 the payment of assessments is extinguished unless proceedings to
3 enforce the lien or collect the debt are instituted within six years
4 after the amount of the assessments sought to be recovered becomes due.

5 (4) This section applies retroactively to any governing documents
6 in effect on the effective date of this section.

7 (5) This section supersedes any provisions of the governing
8 documents that are inconsistent with this section. All such
9 inconsistent provisions of the governing documents are void and
10 unenforceable.

11 **Sec. 14.** RCW 64.38.035 and 1995 c 283 s 7 are each amended to read
12 as follows:

13 (1) A meeting of the association must be held at least once each
14 year.

15 (2) Special meetings of the association may be called by the
16 president, a majority of the board of directors, or by owners having
17 (~~ten~~) five percent of the votes in the association. Whoever calls
18 the special meeting determines the first order of business on the
19 agenda. The board may place additional business on the agenda as long
20 as it is the last order of business at the special meeting. Special
21 meetings must be held at a reasonable time and at a reasonable place.
22 Any business may be placed on the agenda for a special meeting as long
23 as the business does not conflict with this chapter or the
24 association's governing documents. This subsection supersedes any
25 inconsistent provisions of the governing documents or other applicable
26 statute.

27 (3) Not less than (~~fourteen~~) ten nor more than sixty days in
28 advance of any meeting, the secretary or other officers specified in
29 the bylaws shall cause notice to be hand-delivered or sent prepaid by
30 first-class United States mail to the mailing address of each owner or
31 to any other mailing address designated in writing by the owner. The
32 notice of any meeting shall state the time and place of the meeting and
33 the business to be placed on the agenda by the board of directors for
34 a vote by the owners, including the general nature of any proposed
35 amendment to the articles of incorporation, bylaws, any budget or
36 changes in the previously approved budget that result in a change in
37 assessment obligation, and any proposal to remove a director.

1 ~~((2) Except as provided in this subsection, all meetings of the~~
2 ~~board of directors shall be open for observation by all owners of~~
3 ~~record and their authorized agents. The board of directors shall keep~~
4 ~~minutes of all actions taken by the board, which shall be available to~~
5 ~~all owners. Upon the affirmative vote in open meeting to assemble in~~
6 ~~closed session, the board of directors may convene in closed executive~~
7 ~~session to consider personnel matters; consult with legal counsel or~~
8 ~~consider communications with legal counsel; and discuss likely or~~
9 ~~pending litigation, matters involving possible violations of the~~
10 ~~governing documents of the association, and matters involving the~~
11 ~~possible liability of an owner to the association. The motion shall~~
12 ~~state specifically the purpose for the closed session. Reference to~~
13 ~~the motion and the stated purpose for the closed session shall be~~
14 ~~included in the minutes. The board of directors shall restrict the~~
15 ~~consideration of matters during the closed portions of meetings only to~~
16 ~~those purposes specifically exempted and stated in the motion. No~~
17 ~~motion, or other action adopted, passed, or agreed to in closed session~~
18 ~~may become effective unless the board of directors, following the~~
19 ~~closed session, reconvenes in open meeting and votes in the open~~
20 ~~meeting on such motion, or other action which is reasonably identified.~~
21 ~~The requirements of this subsection shall not require the disclosure of~~
22 ~~information in violation of law or which is otherwise exempt from~~
23 ~~disclosure.))~~

24 NEW SECTION. **Sec. 15.** A new section is added to chapter 64.38 RCW
25 to read as follows:

26 Except as provided in this section, all meetings of the board of
27 directors shall be open for observation by all owners of record and
28 their authorized agents. The board of directors shall keep minutes of
29 all actions taken by the board, which must be available to all owners.
30 Upon the affirmative vote in open meeting to assemble in closed
31 session, the board of directors may convene in closed executive session
32 to consider personnel matters; consult with legal counsel or consider
33 communications with legal counsel; and discuss likely or pending
34 litigation, matters involving possible violations of the governing
35 documents of the association, and matters involving the possible
36 liability of an owner to the association. The motion must state
37 specifically the purpose for the closed session. Reference to the

1 motion and the stated purpose for the closed session must be included
2 in the minutes. The board of directors shall restrict the
3 consideration of matters during the closed portions of meetings only to
4 those purposes specifically exempted and stated in the motion. A
5 motion, or other action adopted, passed, or agreed to in closed session
6 may not become effective unless the board of directors, following the
7 closed session, reconvenes in open meeting and votes in the open
8 meeting on such motion, or other action that is reasonably identified.
9 This section does not require the disclosure of information in
10 violation of law or that is otherwise exempt from disclosure. This
11 section supersedes any conflicting provisions in Title 23 or 24 RCW or
12 in the association's governing documents.

13 **Sec. 16.** RCW 64.38.040 and 1995 c 283 s 8 are each amended to read
14 as follows:

15 Unless the governing documents specify a (~~different~~) smaller
16 percentage, a quorum is present throughout any meeting of the
17 association if the owners to which (~~thirty-four~~) twenty-five percent
18 of the votes of the association are allocated are present in person or
19 by proxy at the beginning of the meeting.

20 NEW SECTION. **Sec. 17.** A new section is added to chapter 64.38 RCW
21 to read as follows:

22 For declarations that exist before the effective date of this
23 section:

24 (1) If a declaration requires more than seventy-five percent of the
25 votes in the association to approve any amendment to the declaration,
26 the association shall, if so directed by owners holding at least sixty-
27 seven percent of the votes in the association, bring an action in
28 superior court for the county, which any portion of the real property
29 subject to the declaration is located, to reduce the percentage of
30 votes required to amend the declaration. The owners' decision to bring
31 an action may, notwithstanding any provision to the contrary in the
32 declaration, be made by votes cast at a meeting of the association duly
33 called or by written consent, or by both. The action shall be an in
34 rem declaratory judgment action whose title shall be the description of
35 the property subject to the declaration.

1 (2) If the court finds that the percentage of votes set forth in
2 the declaration is an unreasonable burden on the ability of the owners
3 to amend the declaration and of the association to administer the
4 property under its jurisdiction, the court shall enter an order
5 striking the percentage of votes from the declaration and substituting
6 the percentage of votes that the court determines to be appropriate in
7 the circumstances. The court shall not mandate approval of less than
8 sixty-seven percent of the votes in the association to amend any
9 provision of the declaration.

10 NEW SECTION. **Sec. 18.** A new section is added to chapter 64.38 RCW
11 to read as follows:

12 (1) Except as provided in subsection (2) of this section,
13 declarations recorded after the effective date of this section can be
14 amended with the approval of at least sixty-seven percent of the total
15 votes in the association, or any larger percentage specified in the
16 declaration.

17 (2) A declarant may unilaterally amend the declaration, but only if
18 the right to amend is clearly stated in the declaration and if the
19 amendment:

20 (a) Subjects additional property to the declaration pursuant to a
21 plan of expansion set forth in the declaration;

22 (b) Withdraws property from the declaration, if the withdrawal is
23 allowed under the terms of the declaration and if the property to be
24 withdrawn is not owned by any third party;

25 (c) Brings any provision of the declaration into compliance with
26 any applicable statute, rule, regulation, or judicial determination;

27 (d) Enables any title insurance company to issue title insurance
28 coverage for the lots;

29 (e) Enables any institutional or governmental lender, purchaser,
30 insurer, or guarantor of mortgage loans, to make, purchase, insure, or
31 guarantee mortgage loans for the lots; or

32 (f) Satisfies the requirements of any local, state, or federal
33 governmental agency.

34 The amendment shall not adversely affect the title to any lot
35 unless the owner of the affected lot consents to it in writing.

36 (3) The declaration may require all or a specified number or
37 percentage of the eligible mortgagees who hold first lien security

1 interests encumbering lots to approve specified actions of the owners
2 or association as a condition to the effectiveness of those actions,
3 but a requirement for approval may not operate to:

4 (a) Deny or delegate control of the general administrative affairs
5 of the association by the owners or board of directors;

6 (b) Prevent the association or board of directors from commencing,
7 intervening in, or settling any litigation or proceeding; or

8 (c) Prevent any insurance trustee or the association from receiving
9 and distributing any insurance proceeds.

10 For purposes of this subsection, "eligible mortgagee" means the
11 holder of a mortgage on a lot that has filed with the secretary of the
12 association a written request for copies of notices of any action by
13 the association that requires the consent of mortgagees that includes
14 the lot number and address of the property subject to the mortgage. If
15 an eligible mortgagee fails to respond to a request for approval within
16 thirty days following the association's issuance of a notice requesting
17 such approval, the eligible mortgagee's approval is deemed granted.

18 (4) The declaration may permit the association's members to approve
19 an amendment through a combination of votes conducted during meetings
20 or through a written consent process.

21 (5) The declaration may require that to be effective all
22 declaration amendments must be signed by one or more officers of the
23 association, or if applicable, by the declarant. To be effective, all
24 declaration amendments must be acknowledged and recorded in each county
25 in which any portion of the property is located.

26 NEW SECTION. **Sec. 19.** A new section is added to chapter 64.38 RCW
27 to read as follows:

28 An action to challenge the validity of a declaration amendment
29 adopted by the association under this chapter and after the effective
30 date of this section may not be brought more than one year after the
31 amendment is recorded.

32 NEW SECTION. **Sec. 20.** A new section is added to chapter 64.38 RCW
33 to read as follows:

34 (1) This section applies to associations in which the declaration
35 or the bylaws authorize only the board of directors to adopt, amend, or

1 rescind bylaws and to do so without a vote of the members and, with
2 respect to those associations, to all bylaws adopted or amended by the
3 board of directors after the effective date of this section.

4 (2) A bylaw adopted, amended, or rescinded by the board of
5 directors shall not be valid or enforceable until it is ratified by the
6 association's members as set forth in this subsection:

7 (a) The board of directors shall submit all bylaws adopted,
8 amended, or rescinded by the board to a vote of the members. The vote
9 must be held at the next regularly scheduled annual meeting of the
10 association, or at a special meeting held before the next annual
11 meeting.

12 (b) The notice of the annual or special meeting must include the
13 text of any existing bylaw that the board has approved for amendment or
14 rescission, and the text of any new or amended bylaw approved by the
15 board.

16 (c) Unless the governing documents specify a longer advance notice
17 period for a meeting, notice of the meeting, at which the proposed
18 bylaw change will be voted upon, must be provided at least ten days in
19 advance of the meeting and shall not be given more than sixty days in
20 advance of the meeting.

21 (d) The proposed bylaw change is deemed approved and ratified by
22 the members unless a majority of all the votes in the association vote
23 at the meeting, in person or by proxy, to reject the bylaw change
24 approved by the board.

25 (3) All bylaw changes ratified by the members in accordance with
26 this section take effect the day after the annual or special meeting at
27 which they were ratified.

28 NEW SECTION. **Sec. 21.** A new section is added to chapter 64.38 RCW
29 to read as follows:

30 For rules, or amendments to rules, adopted after the effective date
31 of this section:

32 (1) A rule adopted by the board is valid and enforceable if all the
33 following requirements are satisfied:

34 (a) The rule is in writing;

35 (b) The rule is required by law or, within the authority of the
36 board, conferred by law or by the declaration;

37 (c) The rule is consistent with the governing documents; and

1 (d) The rule is adopted or amended in substantial compliance with
2 the requirements of this chapter.

3 (2) Except for emergency rules, the board of directors must provide
4 the association's members with notice and an opportunity to comment on
5 any proposed new or amended rule before the board is authorized to
6 adopt or enforce that rule. For purposes of this section, an
7 "emergency rule" is a rule that is necessary for the immediate
8 preservation of health and safety or a rule that sets forth specific
9 rights or obligations affecting the association or its members under
10 state statutes or administrative rules. Emergency rules become
11 effective immediately, subject to the members' right to request a
12 ratification vote under subsection (3) of this section.

13 (3) Except for emergency rules, rules adopted by the board of
14 directors following notice and an opportunity for comment become
15 effective thirty days after notice of the rules is provided to the
16 members in the manner authorized by the governing documents, unless a
17 written petition signed by twenty percent of the total votes in the
18 association is submitted to the board within that thirty-day period
19 requesting a ratification vote on the proposed rule. If a ratification
20 vote is requested, the association shall use the following process for
21 the ratification vote:

22 (a) The board of directors must submit the rules on which a
23 ratification vote has been requested to a vote of the members. The
24 vote must be conducted at the next regularly scheduled annual meeting
25 of the association, or at a special meeting held before the next annual
26 meeting.

27 (b) The notice of the meeting, at which the ratification vote will
28 be conducted, must include the text of the proposed rules.

29 (c) Unless the governing documents specify a longer advance notice
30 period for an association meeting, notice of the meeting, at which the
31 ratification vote will be conducted, must be provided at least ten days
32 in advance of the meeting and shall not be provided more than sixty
33 days in advance of the meeting.

34 (d) The proposed rule change is deemed approved and ratified by the
35 members, unless a majority of all the votes in the association vote at
36 the meeting, in person or by proxy, to reject the rule change approved
37 by the board.

1 (e) All rule changes ratified by the members in accordance with
2 this section take effect on the original effective date or later
3 effective date established by the board.

4 (4) The board of directors is not required to use the following
5 optional rule-making process. However, use of this process establishes
6 compliance with the requirements of subsection (1) of this section.
7 For purposes of this section, "rule change" means the adoption or
8 amendment of a rule by the board.

9 (a) The board shall give notice of a proposed rule change to the
10 owners. The notice must include the following information: (i) The
11 text of the proposed rule change; (ii) a description of the purpose and
12 effect of the proposed rule change; and (iii) the deadline for
13 submission of a comment on the proposed rule change.

14 (b) For a period of at least thirty days following actual or
15 constructive delivery of a notice of a proposed rule change, the board
16 shall accept written comments from owners on the proposed rule change.

17 (c) The board shall consider any comments it receives and make a
18 decision on a proposed rule change at a board meeting. Except for
19 emergency rules, a decision on a rule may not be made until after the
20 comment submission deadline.

21 (d) The board shall give notice of a rule change to the owners.
22 The notice must set out the text of the rule change and state the date
23 the rule change takes effect. Except for emergency rules, the date the
24 rule change takes effect must not be less than thirty days after notice
25 of the rule change is provided in the manner authorized in the
26 governing documents.

27 NEW SECTION. **Sec. 22.** A new section is added to chapter 64.38 RCW
28 to read as follows:

29 (1) The definitions in this subsection apply throughout this
30 section unless the context clearly requires otherwise.

31 (a) "Requestor" means the party requesting mediation.

32 (b) "Request" means a request for mediation.

33 (c) "Recipient" means the party that receives the request for
34 mediation.

35 (2) For disputes that arise after the effective date of this
36 section and do not apply to any judicial or other legal proceedings
37 pending before the effective date of this section:

1 (a) With the exception of the claims listed in (b) of this
2 subsection, disputes between owners or between owners and their
3 association that involve the governing documents must be submitted to
4 mediation before any party may pursue the claim through court
5 proceedings.

6 (b) The following categories of claims are exempt from the
7 prelitigation mediation requirement under (a) of this subsection:

8 (i) Claims in which the statute of limitations will soon expire,
9 except that any party to the lawsuit may file a motion with the court
10 requesting that the judge order the parties to mediate before allowing
11 them to proceed with the lawsuit and temporarily stay the litigation
12 proceedings pending the outcome of mediation;

13 (ii) Claims for injunctive relief, except that any party to the
14 lawsuit may file a motion with the court requesting that the judge
15 order the parties to mediate before allowing them to proceed with the
16 lawsuit and temporarily stay the litigation proceedings pending the
17 outcome of mediation;

18 (iii) Claims for declaratory judgment;

19 (iv) Claims related to assessments, or the collection of
20 assessments, or to foreclosures;

21 (v) Claims for defects in construction of homes and other
22 improvements, whether individually owned or part of the common areas;

23 (vi) Claims that involve parties who are not subject to the
24 association's governing documents;

25 (vii) Claims between members of the association that are unrelated
26 to the association's governing documents;

27 (viii) Claims or issues that have been the subject of a previous
28 mediation request, response, or mediation conference under this section
29 within twelve months of the date of the most recent request, response,
30 or mediation conference, whichever is sooner.

31 (c) Unless another reasonable alternative dispute resolution
32 process is set forth in the declaration or adopted by a majority vote
33 of the nondeclarant members of the association, the following
34 procedures in this subsection govern the mediation of disputes under
35 this chapter:

36 (i) The party requesting mediation must submit a request for
37 mediation to the other parties;

1 (ii) The request may be made in any medium, provided that the
2 requestor can prove the request was received by the recipient;

3 (iii) Mediation must be conducted by one mediator, unless the
4 parties agree otherwise;

5 (iv) Unless all parties to the mediation agree otherwise, the
6 mediation conference must be held within ninety days of the date the
7 request is received by all recipients;

8 (v) The request for mediation must: State the issues that the
9 requestor wishes to mediate; certify that the requestor is willing to
10 meet in good faith; and propose a mediator and provide full contact
11 information (name, address, telephone and fax numbers, and e-mail
12 address) for the proposed mediator;

13 (vi) The recipients must respond to the requestor no later than
14 thirty days after the request is received by all recipients. The
15 response may be made in any medium as long as the recipient can prove
16 that the response was received by the requestor;

17 (vii) If the recipient agrees to mediate, the response must include
18 a statement of any additional issues that the recipient wishes to
19 mediate, a statement of whether the mediator proposed by the requestor
20 is acceptable to the recipient and, if not, a proposed alternative
21 mediator and that mediator's contact information. If the recipient
22 declines to mediate, the response must indicate this decision and
23 include a statement of the reasons that the recipient declines to
24 mediate;

25 (viii) The requestor must reply to the recipient's response within
26 fifteen days of receipt. If the response identifies additional issues
27 that the recipient wishes to address at mediation, the reply must state
28 whether the requestor agrees to mediate those issues. If the requestor
29 does not agree to mediate those issues, the reply must indicate this
30 decision and include a statement of the reasons that the requestor
31 declines to mediate the issues identified by the recipient. A
32 requestor's refusal to mediate the issues identified in the reply is
33 subject to (e) of this subsection;

34 (ix) If the recipient has proposed an alternative mediator, the
35 reply must state whether the alternative mediator is acceptable to the
36 requestor. If the alternative mediator is not acceptable, the
37 requestor must contact the two proposed mediators within fifteen days

1 of delivering the reply and request that the mediators choose a third
2 person who is available within the time frame required in this section
3 to act as mediator;

4 (x) The mediator may be an attorney or judge. The mediator's
5 primary function is to assist the parties in communicating with one
6 another and to find ways to resolve the disputed issues by agreement.

7 (d) Either the recipient or the requestor can decline mediation.
8 If mediation is declined, or a party fails to participate in a
9 scheduled mediation conference, the other party may proceed with filing
10 a legal action. In such a case, the court may:

11 (i) Enter an order compelling the parties to participate in a
12 mediation conference if the court determines that mediation would be
13 productive or useful; and

14 (ii) Impose appropriate remedies for a party's unjustified failure
15 to mediate claims subject to mandatory mediation requirements imposed
16 under this section including, without limitation, requiring that party
17 to pay all mediation fees and costs charged by the mediator, reimburse
18 the plaintiff for the costs of filing suit, reimburse the plaintiff for
19 process of service costs, and reimburse the plaintiff for some or all
20 of the plaintiffs' attorneys' fees and costs.

21 This subsection (2)(d) supersedes any inconsistent provisions in an
22 association's governing documents. The standard of review of a trial
23 court's decision under this section is abuse of discretion.

24 (e) Unless the parties agree otherwise, the fees and costs of
25 mediation must be shared equally by all parties to the mediation. For
26 purposes of this subsection (2)(e), "fees and costs of mediation" means
27 only those fees and costs charged by the mediator or mediation service
28 and does not include investigation costs or fees paid to an attorney to
29 represent a party to the mediation. If the mediator requires
30 prepayment of all or a portion of the anticipated fees and costs, all
31 parties to the mediation must comply with this requirement. An
32 association may not condition mediation on a member's payment of any
33 charges, costs, or fees.

34 (3) This section does not limit any party's right to seek relief in
35 a court of competent jurisdiction after the mediation requirements in
36 this section have been met.

1 Easements (CCRs). Other important HOA documents may include
2 Articles of Incorporation, Bylaws, Rules, and Policies.

3 (3) WHAT SERVICES AND AMENITIES ARE PROVIDED BY HOAs?

4 The services and amenities provided by HOAs vary greatly from
5 community to community. These may include common areas such as
6 a swimming pool, tennis court, playground, trails, community
7 center, or even a golf course. Some HOAs provide landscaping
8 services for homeowners, and some even paint and maintain the
9 exterior of homes.

10 (4) WHAT OBLIGATIONS DOES AN HOA HAVE?

11 Each HOA is different, but the most common HOA roles include
12 maintaining common areas and amenities, administering and
13 enforcing use and architectural restrictions, adopting budgets,
14 and collecting assessments.

15 (5) AM I REQUIRED TO BE A MEMBER OF THE HOA?

16 Generally, the governing documents for an HOA make membership
17 mandatory for all owners within the community. The HOA's
18 governing documents are essentially a legally binding contract
19 between the owner/members and the association. If you have
20 questions about your legal rights and obligations as a member
21 of the HOA, you should consult an attorney.

22 (6) HOW DOES MEMBERSHIP IN AN HOA AFFECT THE OWNERSHIP OF MY
23 HOME?

24 By virtue of your membership in an HOA, you will have various
25 rights and obligations as described in the governing documents.
26 These may include restrictions on the use of your property,
27 architectural controls on future improvements of your property,
28 and the obligation to pay assessments, also known as dues, to
29 the HOA.

30 (7) WHO IS IN CHARGE OF AN HOA?

31 HOAs are typically governed by a board of directors or board of
32 trustees elected by the homeowners. The board's
33 responsibilities and power depend upon the HOA's governing
34 documents.

1 (8) HOW DOES THE HOA ENFORCE THE GOVERNING DOCUMENTS?

2 The governing documents of an HOA typically give it
3 wide-ranging powers to enforce its covenants, rules, and
4 policies. This may include the power to file a lawsuit for
5 damages or injunctive relief or fine an owner who does not
6 comply with the restrictions.

7 (9) WHAT HAPPENS IF I DO NOT PAY MY HOA ASSESSMENTS?

8 The governing documents likely give your HOA the power to place
9 a lien on your home or take other legal action if you fail to
10 pay properly levied assessments. If you do not pay your
11 assessments on time, this might result in the foreclosure of
12 your home by the HOA.

13 (10) WHAT IS THE DIFFERENCE BETWEEN AN HOA AND A CONDOMINIUM
14 ASSOCIATION?

15 A condominium association is a specialized type of homeowners'
16 association. A condominium association is created under
17 different statutes than those that apply to HOAs. Unless your
18 governing documents state that your community is a condominium
19 created pursuant to the Washington Condominium Act, chapter
20 64.34 RCW, or the Horizontal Property Regimes Act, chapter
21 64.32 RCW, it is not a condominium.

22 (11) WHAT HAPPENS IF ONE OF THE COMMON AREAS OF MY HOA MUST BE
23 REPAIRED OR REPLACED?

24 Well-managed HOAs will normally include an amount for reserves
25 in their annual budgets. In this way, a portion of the
26 assessments you pay is set aside and builds up over time to pay
27 for expensive repairs or replacements. You should review the
28 HOA's financial statements to determine if this is true for
29 your HOA.

30 (12) WHAT IS THE AMOUNT OF THE ASSESSMENTS THAT CAN BE CHARGED
31 BY MY HOA?

32 If you are a new buyer, you are entitled to a resale
33 certificate that will provide this information. Otherwise,
34 this information should be provided to you as part of the HOA's

1 annual budget process. If you have questions, you should
2 consult the HOA's manager or a member of its board of
3 directors.

4 (13) CAN ASSESSMENTS BE INCREASED?

5 Typically, the governing documents allow for assessments to be
6 adjusted based on the HOA's annual budget. The law governing
7 homeowners' associations requires that an HOA's annual budget
8 be ratified by its members. This is a good opportunity to ask
9 questions as to how budget changes will affect your
10 assessments.

11 (14) CAN MY HOA RESTRICT THE TYPES OF IMPROVEMENTS I CAN MAKE
12 TO MY HOME?

13 Depending on your governing documents, your HOA may have
14 certain architectural or design guidelines and restrictions.
15 If it does, there may be restrictions on the exterior
16 appearance of your home, and you may be required to submit
17 plans and specifications for approval before you make any
18 changes to the exterior or build any additions or other
19 structures.

20 (15) WHAT TYPES OF USE RULES MIGHT AFFECT MY HOME?

21 The HOA's governing documents may contain rules relating to
22 trees, landscaping, pets, satellite dishes, clotheslines,
23 fences, parking, home businesses, rental of homes, and other
24 issues. You should carefully read the governing documents to
25 understand the nature of these restrictions.

26 (16) AS A MEMBER OF AN HOA, CAN I RENT MY HOME?

27 The answer to this question depends on the governing documents
28 for the particular community. Some governing documents
29 prohibit all rentals, some limit the number of homes that can
30 be rented at any time, while others have no restrictions on
31 leasing.

32 (17) WHEN DOES MY HOA MEET?

33 In Washington state, HOAs must hold a meeting of the membership
34 at least once each year. Notice of the date and time of the

1 meeting must be provided to you by the officers of the
2 association. Your HOA's board will likely meet more often. If
3 you would like information concerning the board's meeting
4 schedule, you should consult the HOA's manager or a member of
5 the board.

6 (18) CAN I ATTEND THE REGULAR MEETINGS OF MY HOA'S BOARD OF
7 DIRECTORS?

8 Board meetings are generally open to members of the HOA to
9 observe, but not to participate in. The law governing
10 homeowners' associations permits a board to consider certain
11 sensitive topics in private (executive session), and to exclude
12 HOA members from that part of the board's meeting. Review the
13 HOA's governing documents, particularly its bylaws, to
14 determine your rights.

15 (19) AS A MEMBER OF AN ASSOCIATION, CAN I OBTAIN COPIES OF THE
16 HOA'S RECORDS?

17 The law governing homeowners' associations provides that the
18 records of the HOA must be made available for review by owners
19 during normal business hours at the office of the HOA or its
20 managing agent.

21 (20) HOW CAN I DETERMINE WHETHER THE HOA OF WHICH I AM
22 CONSIDERING BECOMING A MEMBER FACES ANY SERIOUS FINANCIAL
23 PROBLEMS?

24 As a purchaser of a home within an HOA, you are entitled to
25 receive a resale certificate that will provide you with
26 information regarding the financial condition of the HOA and
27 whether it is involved in any litigation.

28 However, you should also ask the seller questions to get a
29 clear picture of the HOA's financial condition.

30 (21) DO THE BENEFITS OF BELONGING TO AN HOA OUTWEIGH THE
31 BURDENS?

32 This is a question you should consider when the home you want
33 to buy is part of an HOA. Some of the typical benefits and
34 burdens are described above. Studying the governing documents
35 for the community in which you are considering purchasing a

1 home is an important step. Consider exploring this question
2 with your seller, real estate professional, attorney, and other
3 advisors. You may also wish to speak with neighboring
4 homeowners about the community and the HOA."

5 (2) The homeowners' association information pamphlet is not
6 required in real property transfers that occur between commercial
7 buyers and sellers or those transfers listed in RCW 64.06.010.

8 NEW SECTION. **Sec. 25.** A new section is added to chapter 64.38 RCW
9 to read as follows:

10 (1) Subject to subsection (2) of this section, the declaration may
11 provide for a period of declarant control of the association, during
12 which period a declarant or persons designated by the declarant may (a)
13 appoint and remove the officers and members of the board of directors
14 or (b) veto or approve a proposed action of the board or association.
15 A declarant's failure to veto or approve the proposed action in writing
16 within thirty days of written notice of the proposed action is deemed
17 an approval of the proposed action by the declarant.

18 (2) Regardless of any period provided in the declaration, a period
19 of declarant control terminates within thirty days after two-thirds of
20 the lots are transferred to owners other than the declarant.

21 NEW SECTION. **Sec. 26.** The code reviser shall alphabetize and
22 renumber the definitions in RCW 64.38.010.

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